

ORIGINAL

FILED

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
2014 FEB -7 ) PM 1:00 ) FOR THE  
COUNTY OF LEXINGTON ) ELEVENTH JUDICIAL CIRCUIT  
BETH A. GARRIGG )  
CLERK OF COURT ) WARRANT #W-32-13-0318  
LEXINGTON, SC ) CITATION #32-13-0263

Plaintiff, )  
)  
v. )  
)  
BRAD DAY, )  
)  
Defendant. )  
\_\_\_\_\_ )

ORDER

This Matter came before the Court on January 31, 2014. The Department of Probation, Parole and Pardon Services (PPP) alleged violations of Defendant's Community Supervision Program (CSP) pursuant to S.C. Code 24-21-560. Defendant Day was represented by David Mauldin at the hearing.

In light of the information presented at the hearing, the Court finds that Defendant violated his CSP in the following ways: For testing positive for cocaine and living in an unapproved residence. The Court revokes one year pursuant to section 24-21-560(C). \* DAK

Also at the hearing, Defendant moved for a finding that he had served his sentence and should no longer be considered to be on CSP. In support of his motion, Defendant showed that he had been sentenced to ten years suspended to the service of five years for indictment 07-GS-32-01387, Criminal Sexual Conduct with a Minor in the Second Degree.

Defendant served eighty-five percent of his five years and was released to the supervision of PPP under CSP pursuant to S.C. Code 24-21-560 on September 12, 2011. Since that time, he has served one 90-day revocation period and a one-year revocation period. It is undisputed Defendant has served more than the full five years of his unsuspended sentence.

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DAK

However, the Supreme Court in State v. Picklesimer, 388 S.C. 264, 695 S.E.2d 845 (2010), ruled that CSP is to use both the suspended and unsuspended portions of the sentence when determining the maximum amount of time a defendant is to be on CSP. "We now definitively state that the 'original sentence,' as referenced in section 24-21-560(D), includes both the suspended and unsuspended portions of a circuit court's sentence; it is, in fact, the total sentence handed down by the court." Id. at 268, 848. Picklesimer also ruled that CSP is either completed through two continuous years of CSP without violations, or the expiration of the original sentence, which includes both suspended and unsuspended portions of the sentence. Id. at 270, 848-849.

Because Defendant Day's original sentence was ten years suspended to the service of five years, the total sentence is ten years. Therefore, Mr. Day has not yet fully completed his sentence. He is to be sentenced to one year incarceration for the violation of the conditions of CSP and is to return to CSP when he is released from incarceration.

It is so ordered.




Donald B. Hocker  
Presiding Judge  
Eleventh Judicial Circuit

This 5th day of February, 2014

*DBH*  
\* Mr. Day shall receive credit  
for 37 days served.

A TRUE COPY

  
Lex. Co. C.C.C.P., G.S. & F.C.

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